IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 4082 of 2007(J)

PETITIONER:

SANTHOSH PHILIP N.,
NANTHICATTU HOUSE, MOOLAVATTOM P.O.,
KOTTAYAM, (U.D.CLERK, P.H.CIRCLE,
KERALA WATER AUTHORITY, KOTTAYAM.)

BY ADV. SRI.T.S.RAJASENAN

RESPONDENTS:

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1. THE PRINCIPAL SECRETARY TO GOVERNMENT,
WATER RESOURCES (WS-B) DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. THE KERALA WATER AUTHORITY,
REPRESENTED BY ITS MANAGING DIRECTOR,
JALABHAVAN, VELLAYAMBALAM, THIRUVANANTHAPURAM.

3. THE CHIEF ENGINEER (HRD & GL),
KERALA WATER AUTHORITY, VELLAYAMBALAM,
THIRUVANANTHAPURAM.

4. THE CHIEF ENGINEER (SR),
KERALA WATER AUTHORITY, VELLAYAMBALAM,
THIRUVANANTHAPURAM.

5. THE SUPERINTENDING ENGINEER,
PH CIRCLE, KERALA WATER AUTHORITY,
KOTTAYAM.

6. THE DIRECTOR,
VIGILANCE AND ANTICORRUPTION BUREAU,
THIRUVANANTHAPURAM.

R1 & 6 BY GOVT. PLEADER SHRI.BIJOY CHANDRAN.
R2 TO R5 BY SHRI.J.KRISHNAKUMAR, SC, KWA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

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WP(C).No.4082 OF 2007-J.

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Dated this the 21st day of February, 2007.

J U D G M E N T

The petitioner is an Upper Division Clerk in the service of the Kerala Water Authority. He has filed this writ petition seeking to set aside Exts.P1 and P12 orders. Ext.P1 order was passed by the Managing Director of the Water Authority on 3-12-2005 placing the petitioner under suspension invoking Rule 10 of the Kerala Civil Services (Classification, Control & Appeal) Rules, 1960. Against Ext.P1 order, the petitioner filed representation requesting to reinstate him in service pending investigation. Ext.P12 dated 22-1-2007 says that the Government in the Vigilance Department has not shown the green signal because his reinstatement will adversely affect the ongoing investigation.

2. Government Pleader, on instructions, submits that in the light of the serious allegations against the petitioner, it will not be proper to reinstate him

in service. The offences alleged against the petitioner include breach of trust, fabrication of records, etc., in the official discharge of his duties.

3. When this Court put a query to the Government Pleader as to why the investigation is not expedited, the learned Govt. Pleader submitted that the Kerala Water Authority is not co-operating with the Government in the Vigilance Department. If that is true, it is a sad state of affairs. The Kerala Water Authority, a State public sector undertaking, cannot take such an attitude. The petitioner may or may not be guilty. The allegations against him may or may not be true. Counsel for the petitioner submits that the petitioner is absolutely innocent and it is only because of the ill will entertained by the Director, the petitioner is unnecessarily put to task. I am not called upon, in these proceedings, to express any opinion about the rival submissions made by the parties regarding the truth or otherwise of the allegations or the seriousness of the allegations. I must, however, say that offences coming within the purview of Sections

408, 468, etc., of the Indian Penal Code are per se grave and a crime case registered for offences involving those categories cannot be brushed aside as unimportant. In the facts and cirucmstances, this Court is of the view that unless the Vigilance Department comes to the finding, at least prima facie, that the allegations against the petitioner are devoid of merit or truth, it cannot be said that the refusal to reinstate the petitioner, at this stage, is illegal or calls for the interference of this Court.

4. The Kerala Water Authority as well as the petitioner shall co-operate with the Government in the Vigilance Department for completing the investigation as expeditiously as possible. The Vigilance Department will file an interim report to the 1st respondent who after due consideration of the same shall advise the 2nd respondent as to whether the order of suspension shall be continued or can be recalled. The 2nd respondent, based on the report with respect to the investigation thus conducted, shall review the order of suspension and pass fresh orders without delay. The 2nd respondent

shall expedite the investigation and submit the report to the 1st respondent within three months from today. Based on the report thus filed and upon due communication of the same from the 2nd respondent, the 1st respondent shall pass appropriate orders on the request for review of the order of suspension.

With the above observations and directions, this writ petition is disposed of.

K.K.DENESAN, JUDGE.

kvs/-